

ROBERT G. DREHER

THE HONORABLE NATHANAEL COUSINS

Acting Assistant Attorney General

U.S. Department of Justice

Environment & Natural Resources Division

SETH M. BARSKY, Chief

KRISTEN L. GUSTAFSON, Assistant Chief

ETHAN CARSON EDDY, Trial Attorney (Cal. Bar 237214)

Wildlife and Marine Resources Section

P.O. Box 7611, Ben Franklin Station

Washington, D.C. 20044

(202) 305-0202 (phone)

(202) 305-0275 (fax)

ethan.eddy@usdoj.gov

*Attorneys for Defendants*

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

KLAMATH-SISKIYOU WILDLANDS CENTER, )

CENTER FOR BIOLOGICAL DIVERSITY, and )

KLAMATH FOREST ALLIANCE, )

Plaintiffs, )

v. )

NATIONAL OCEANIC AND ATMOSPHERIC )

ADMINISTRATION, NATIONAL MARINE )

FISHERIES SERVICE, and UNITED STATES )

FISH AND WILDLIFE SERVICE, )

Defendants. )

Case No. 3:13-cv-3717-NC

**STIPULATION AND ~~PROPOSED~~  
ORDER EXTENDING DEADLINES  
DUE TO GOVERNMENT  
SHUTDOWN**

Federal Defendants the National Oceanic and Atmospheric Administration, the National

Marine Fisheries Service, and the U.S. Fish and Wildlife Service (“Defendants”), and Plaintiffs

Klamath-Siskiyou Wildlands Center, Center for Biological Diversity, and Klamath Forest Alliance

(“Plaintiffs”) hereby stipulate and respectfully request of the Court an order extending by

approximately thirty days the upcoming deadline for Defendants’ Answer to Plaintiffs’ Complaint,

STIPULATION EXTENDING

DEADLINES AND ~~PROPOSED~~ ORDER

1 as well as the deadlines in the Court's Initial Scheduling Order (ECF No. 3); and continuing the  
2 initial Case Management Conference by approximately four weeks. As set forth below and in the  
3 accompanying declaration of Defendants' counsel, there is good cause for the extension of those  
4 deadlines.

5 At the end of the day on September 30, 2013, the appropriations act that had been funding  
6 the Department of Justice expired and appropriations to the Department lapsed. *See* Decl. of Ethan  
7 Eddy (filed concurrently) at ¶ 2. The same is true for most Executive agencies, including the  
8 Defendant agencies in this case. *Id.* The Department of Justice does not know when funding will  
9 be restored by Congress. *Id.*

10 Absent an appropriation, Department of Justice attorneys and many employees of federal  
11 agencies, including agency counsel, are prohibited from working, even on a voluntary basis, except  
12 in very limited circumstances, including "emergencies involving the safety of human life or the  
13 protection of property." *Id.* at ¶ 3; *see also* 31 U.S.C. § 1342.

14 In most civil litigation matters, the Department of Justice is moving to extend upcoming  
15 deadlines by a length of time commensurate with the length of the government shutdown. Eddy  
16 Decl. at ¶ 4. However, such an approach is not appropriate here because counsel for Defendants  
17 will be out of the office for his wedding and honeymoon for the second half of October. *Id.*

18 Depending on the length of the government shutdown, the current deadline for Defendants' Answer  
19 could shift to become due at a time when counsel for Defendants is unavailable, if the Court were to  
20 extend all deadlines for a length of time equivalent to the length of the shutdown. *Id.* Additionally,  
21 the parties' initial meet-and-confer deadline falls during Defendants' counsel's absence and cannot  
22 be rescheduled for an earlier date at this time due to the government shutdown.

23 Accordingly, the parties stipulate to and request an Order from the Court extending current  
24 deadlines as follows, and as set forth in the Proposed Order affixed to the bottom of this stipulation:  
25  
26  
27

1           1.       Defendants shall file their Answer on or before November 11, 2013.

2           2.       The parties shall conduct the meet-and-confer conference required by the Court's  
3 initial scheduling order (ECF No. 3) no later than November 22, 2013.

4           3.       The parties shall file ADR Certification forms signed by the parties and counsel no  
5 later than November 22, 2013.

6           4.       The parties shall file either a stipulation selecting an ADR process, or a Notice of  
7 Need for ADR Phone Conference, no later than November 22, 2013.

8           5.       The parties' initial Joint Case Management Statement shall be filed no later than  
9 December 4, 2013.

10          6.       The initial Case Management Conference in this action, currently set for November  
11 13, 2013, shall be vacated and rescheduled for December 11, 2013, or a date thereafter that is  
12 convenient for the Court.

13  
14           The Government greatly regrets any disruption caused to the Court and the other litigants.

15                   Respectfully submitted this 3rd day of October, 2013.

16  
17                   ROBERT G. DREHER  
18                   Acting Assistant Attorney General  
19                   U.S. Department of Justice  
20                   Environment & Natural Resources Division  
21                   SETH M. BARSKY, Chief  
22                   KRISTEN L. GUSTAFSON, Assistant Chief

23                   s/ Ethan Carson Eddy  
24                   ETHAN CARSON EDDY  
25                   Trial Attorney (Cal. Bar 237214)  
26                   Wildlife and Marine Resources Section  
27                   P.O. Box 7611, Ben Franklin Station  
28                   Washington, D.C. 20044  
                    (202) 305-0202 (Phone); (202) 305-0275 (Fax)  
                    ethan.eddy@usdoj.gov

*Attorneys for Defendants*

SUSAN JANE BROWN (admitted *pro hac vice*)

s/ Susan Jane Brown (as authorized)  
Western Environmental Law Center  
1216 Lincoln Street  
Eugene, OR 97401  
(541) 485-2471  
brown@westernlaw.org  
mellgren@westernlaw.org

*Attorneys for Plaintiffs*

PAUL KAMPMEIER (admitted *pro hac vice*)

s/ Paul Kampmeier (as authorized)  
Washington Forest Law Center  
615 Second Avenue, Suite 360  
Seattle, WA 98104  
(206) 223-4088  
pkampmeier@wflc.org  
wgolding@wflc.org

*Attorneys for Plaintiffs*

**E-FILING ATTESTATION**

Pursuant to Civil Local Rule 5.1(i)(3), I attest that Susan Jane Brown and Paul  
Kampmeier have concurred in the filing of this document.

/s/ Ethan Carson Eddy  
ETHAN CARSON EDDY  
Counsel for Federal Defendants

**~~PROPOSED~~ ORDER**

The above STIPULATION to extend the deadlines in the Court's initial scheduling order  
(ECF No. 3) and for Defendants to file their Answer to Plaintiffs' complaint is GRANTED. The  
Court's initial scheduling order (ECF No. 3) is modified as follows:

STIPULATION EXTENDING  
DEADLINES AND ~~PROPOSED~~ ORDER

1           1. Defendants shall file their Answer on or before November 11, 2013.

2           2. The parties shall conduct the meet-and-confer conference required by the Court's  
3 initial scheduling order (ECF No. 3) no later than November 22, 2013.

4           3. The parties shall file ADR Certification forms signed by the parties and counsel no  
5 later than November 22, 2013.

6           4. The parties shall file either a stipulation selecting an ADR process, or a Notice of  
7 Need for ADR Phone Conference, no later than November 22, 2013.

8           5. The parties' initial Joint Case Management Statement shall be filed no later than  
9 December 4, 2013.

10          6. The initial Case Management Conference in this action, currently set for November  
11 13, 2013, is VACATED and rescheduled for December 11, 2013.

12  
13           PURSUANT TO STIPULATION, IT IS SO ORDERED.

14  
15          Dated: October 4, 2013

